

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application of Enbridge
Energy Limited Partnership for a Certificate
of Need for the Line 67 Station Upgrade
Project - Phase 2

**THIRD
PREHEARING ORDER**

This matter came before Administrative Law Judge Eric L. Lipman upon the Petition for Intervention of Donovan and Anna Dyrdal.

The Dyrdals own a farm in Norden Township, Minnesota and their parcel is traversed by Line 67 – known more commonly as the “Alberta Clipper Pipeline.” The Applicant opposes the Petition and a grant of party status to Mr. and Mrs. Dyrdal.

Kevin Walli and John R. Gasele, Fryberger, Buchanan, Smith & Frederick, P.A., and Arshia Javaherian, Senior Counsel, Enbridge Energy, Limited, appeared on behalf of Enbridge Energy Company, Inc. (Enbridge).

Jon Erik Kingstad, Law Offices of Jon Erik Kingstad, appeared on behalf of Donovan and Anna Dyrdal (the Dyrdals).

Based upon the submissions of the parties and the contents of the hearing record,

IT IS HEREBY ORDERED:

1. The Petition for Intervention is **GRANTED**.
2. The service list in this matter shall be revised to reflect this Order.

Dated: November 18, 2013

s/Eric L. Lipman
ERIC L. LIPMAN
Administrative Law Judge

MEMORANDUM

The Dyrdals oppose the expansion in pumping capacity sought by Enbridge. They argue that transporting additional oil across their farm “is without any substantial public purpose” and needlessly increases the risks to themselves and their land.¹ The Dyrdals seek intervention in this matter so as to build the record on these points.

Enbridge responds that the Petition for Intervention should be denied because the Dyrdals have not established that they will suffer an injury if more crude oil is shipped through the Alberta Clipper pipeline.² Enbridge argues that any interests the Dyrdals have in this proceeding are already adequately represented by the environmental intervenors, MN350 and the Sierra Club.³

The Administrative Law Judge disagrees. The Dyrdals have a direct and particularized interest in ensuring the accuracy of Enbridge's energy forecasts, the efficient use of the current pipeline and the proper assessment of alternative facilities. These items follow directly from the legal standards that will be applied in this case.⁴ Moreover, the Dyrdals' interest in these matters is distinct from, and arguably more direct than, those who oppose pipeline upgrades on policy grounds.

With that said, the Administrative Law Judge is mindful that there has been a long-running and substantial dispute between the Dyrdals and Enbridge regarding the construction of, and weed mitigation practice along, the Alberta Clipper pipeline.⁵ The Administrative Law Judge notes at the outset of this proceeding that this docket is not the proper forum to resolve the Dyrdals' concerns regarding “the weed bank” or the timeframe for construction of the earlier-approved pipeline.⁶ Those concerns are before the Commission in another docket.⁷

Proceedings in this matter will follow closely the issues set forth in the Commission's September 17, 2013 Notice and Order for Hearing.⁸

E. L. L.

¹ See, Petition to Intervene, MPUC Docket No. CN-13-153, at 2 (eDocket No. 201311-93299-01).

² See, Enbridge's Opposition to Intervention, MPUC Docket No. CN-13-153, at 3-4 (eDocket No. 201311-93602-02).

³ *Id.*

⁴ See, Minn. Stat. § 216B.243, subd. 3 (1), (5), (6) and (8) (Certificate of Need for Large Energy Facility).

⁵ See, Dyrdals' Comments in Response to Notice Soliciting Comments, MPUC Docket No. CN-13-153 (eDocket No. 20138-90360-01).

⁶ *Id.* at 3-4.

⁷ See *e.g.*, Order Setting Procedures, MPUC Docket No. PPL-07-361 (eDocket No. 20115-62894-01); Compliance Filing, MPUC Docket No. PPL-07-360 (eDocket No. 201311-93756-02).

⁸ NOTICE AND ORDER FOR HEARING, MPUC Docket No. CN-13-153 at 4 (the Commission directs the parties proceeding to address whether the proposed Project meets the criteria in Minn. Stat. § 216B.243 and Minn. Rules Chapter 7853) (eDocket No. 20139-91374-01).